

BETH MAXWELL STRATTON
CHAPTER 7 TRUSTEE
Post Office Box 3930
Pinedale, CA 93650
Telephone: (559) 441-4233
Facsimile: (559) 441-4234

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In the Matter of

HEATHER C. CERVANTES,

Debtor.

Case No. 09-16900-A-7
Chapter 7
DC No. BMS - 2
**MOTION TO SELL
REAL PROPERTY**

Date: February 17, 2010
Time: 9:00 a.m.
Dept: A, Hon. Whitney Rimel

Beth Maxwell Stratton, Chapter 7 Trustee ("Trustee") in the above-referenced case, respectfully moves the court for an order approving the sale of real property and represents as follows:

1. Debtor, Heather C. Cervantes ("Debtor"), filed her Chapter 7 bankruptcy petition on July 22, 2009. Trustee is the duly appointed, qualified and acting trustee in the above-referenced case.
2. This court has jurisdiction over this motion by virtue of 28 U.S.C. §1334 and 11 U.S.C. §363. This is a core matter under 28 U.S.C. §157(b)(2)(A) & (N).
3. The assets of the estate include an undivided 50% joint tenancy interest in certain real property commonly described as 51949 Montgomery Drive, Oakhurst, California 93644. (APN: 065-200-042)

1 4. Trustee sought authorization to employ Guarantee Real Estate as a broker to
2 list and sell this property, which authorization was approved by the court by way of order
3 signed by and filed with the court on December 2, 2009.

4 5. Trustee and the co-owner of the real property, Chris Cervantes, entered into an
5 agreement with Douglas F. Smith to sell the property to him for the price of \$275,000.00,
6 subject to the terms and conditions of a written contract. Accompanying this motion as
7 Exhibit A is a copy of that contract.

8 6. Trustee will incur a real estate broker's commission at 6 percent in the sum of
9 \$16,500.00, and estimated closing costs in the approximate sum of \$3,200.00.

10 7. Guarantee Real Estate is the listing agent and Coldwell Banker Premier Real
11 Estate is the selling agent. Trustee requests that a commission equal to 6 percent of the
12 selling price of \$275,000.00 be authorized to be paid out of escrow to Guarantee Real Estate
13 and to Coldwell Banker Premier Real Estate in the total sum of \$16,500.00. The mortgage
14 lien against the property in the approximate amount of \$190,000.00 will be paid through
15 escrow. Trustee shall pay to Debtor her \$18,000.00 exemption after close of escrow, from
16 Trustee's share of the proceeds.

17 8. After all costs of sale, commissions and the mortgage are paid, Trustee and
18 Chris Cervantes will split the proceeds from the sale.

19 9. There is a lien against the property in favor of Child Support Services against
20 Chris Cervantes in the approximate sum of \$16,500.00, which will be paid from his share of
21 the proceeds.

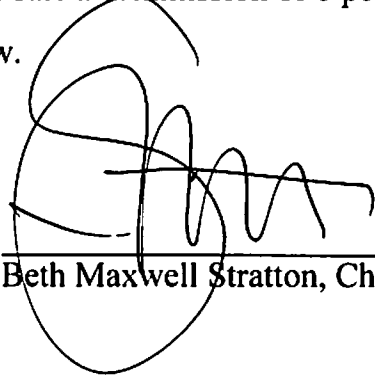
22 10. Trustee believes that it is in the best interest of the estate to sell the
23 property to Douglas F. Smith on the terms stated herein. Trustee does not believe she can
24 receive a better price if the property stays on the market for a longer period.

25 11. Trustee has considered the tax implications of the sale of the real property and
26 has determined that the bankruptcy estate will not incur a tax liability as a result of the sale.

27 WHEREFORE, Trustee prays that she be authorized to sell the real property to
28 Douglas F. Smith on the terms as set forth above, subject only to higher and better bid at the

1 hearing on confirmation of the sale. Trustee further requests that she be authorized to pay to
2 the real estate brokers connected with this sale a commission of 6 percent in the sum of
3 \$16,500.00, payable at the close of escrow.

4 Dated: January 15, 2010

5 
6 _____
7 Beth Maxwell Stratton, Chapter 7 Trustee
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28